

STATE OF NEW YORK
SUPREME COURT

COUNTY OF NEW YORK

M.B.; N.R.F.; J.B.F.; C.A.F; T.B.H.; R.K.; M.M.;
E.M.; A.M.; B.S.; D.S.; E.T.S.; E.S.; A.N.T.; and M.W.

Plaintiffs,

-against-

ROCKEFELLER INSTITUTE
aka ROCKEFELLER UNIVERSITY
aka ROCKEFELLER UNIVERSITY HOSPITAL
aka ROCKEFELLER INSTITUTE HOSPITAL;
and ROCKEFELLER UNIVERSITY;

Defendants

) Plaintiffs designate

) New York County as
) the place of trial

) The basis of venue is

) Defendants' place of business

) **SUMMONS**

) Index No: _____

TO THE ABOVE-NAMED DEFENDANTS:

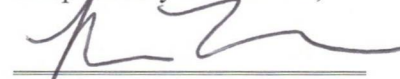
YOU ARE HEREBY SUMMONED to Answer the attached Complaint in this action and to serve upon Plaintiffs' attorneys a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a notice of appearance, on the Plaintiffs' attorneys within twenty (20) days after the service of this Summons, exclusive of the day of service, or within thirty (30) days after the service is complete if this Summons is not personally delivered to you within the State of New York.

PLEASE TAKE NOTICE in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

The county specified in the above title is designated as the place of trial and is based on the Defendant Roman Catholic Diocese of Rochester's place of business.

Dated: August 14, 2019
New York, New York

Respectfully Submitted,



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(NY Admission Pending)

Attorneys for Plaintiffs

STATE OF NEW YORK SUPREME COURT
COUNTY OF NEW YORK

M.B.; N.R.F.; J.B.F.; C.A.F; T.B.H.; R.K.; M.M.;
E.M.; A.M.; B.S.; D.S.; E.T.S.; E.S.; A.N.T.; and M.W.

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aka ROCKEFELLER INSTITUTE HOSPITAL;
and ROCKEFELLER UNIVERSITY;

Defendants.

VERIFIED COMPLAINT
JURY TRIAL DEMANDED

Index No: _____

Plaintiffs, by and through their attorneys, Thomas LaBarbera Counselors At Law and Andreozzi & Associates, P.C., as and for their Complaint in this matter against Defendants, hereby allege as follows:

Nature of the Action

1. This case is brought pursuant to New York's Child Victims Act ("CVA") (CPLR § 214-g).

Jurisdiction and Venue

2. This Court has personal jurisdiction over the Defendants pursuant to CPLR § 301 and § 302, in that the Defendants reside in New York.

3. This Court has jurisdiction over this action because the amount of damages Plaintiffs seek exceed the jurisdictional limits of all lower courts that would otherwise have jurisdiction.

4. Venue for this action is proper in the County of New York pursuant to CPLR § 503, in that the Defendants reside in this County.

Parties

Defendants

5. Defendant ROCKEFELLER INSTITUTE, aka ROCKEFELLER UNIVERSITY, aka ROCKEFELLER UNIVERSITY HOSPITAL, aka ROCKEFELLER INSTITUTE HOSPITAL (“Rockefeller”) is a domestic not-for-profit corporation formed under and governed by the laws of New York located at 1230 York Ave., New York, NY 10065.

6. Defendant ROCKEFELLER UNIVERSITY is a domestic not-for-profit corporation formed under and governed by the laws of New York located at 1230 York Ave., New York, NY 10065.

7. Defendants Rockefeller Institute and Rockefeller University are collectively referred to as “Rockefeller” throughout this Complaint.

8. Rockefeller was founded in 1910, and was originally called the “Rockefeller Institute Hospital,” which was part of the Rockefeller Institute for Medical Research, founded in 1901.

9. From 1958 to 1965, Rockefeller was called the “Rockefeller Institute,” but has been known by its present name since 1965.

10. At all relevant times, Rockefeller oversaw, managed, controlled, and directed the activities of Dr. Reginald Archibald (“Archibald”), as described herein.

Plaintiffs

11. Plaintiffs are identified by their initials as this case involves their child sexual abuse, and disclosure of their identities would cause them further harm.

12. Plaintiff M.B. is an adult resident of New Jersey.

13. Plaintiff N.R.F. is an adult resident of New York.

14. Plaintiff J.B.F. is an adult resident of New Jersey.

15. Plaintiff C.A.F. is an adult resident of New Jersey.

16. Plaintiff T.B.H. is an adult resident of New York.

17. Plaintiff R.K. is an adult resident of New York.

18. Plaintiff M.M. is an adult resident of New Jersey.

19. Plaintiff E.M. is an adult resident of New York.

20. Plaintiff A.M. is an adult resident of Maryland.

21. Plaintiff B.S. is an adult resident of New York.

22. Plaintiff D.S. is an adult resident of New Jersey.

23. Plaintiff E.T.S. is an adult resident of New York.

24. Plaintiff E.S. is an adult resident of Arizona.

25. Plaintiff A.N.T. is an adult resident of New York.

26. Plaintiff M.W. is an adult resident of New Jersey.

Facts

Dr. Reginald Archibald

27. Dr. Reginald Archibald ("Archibald") was born March 2, 1910.

28. Archibald received his Ph.D. in 1939 from the University of Toronto, and thereafter did an internship in Toronto.

29. In approximately 1940, Rockefeller hired Archibald as a pediatric endocrinologist.
30. Archibald thereafter worked at Rockefeller (with a brief hiatus) until 1982, when he retired.
31. Archibald's only hiatus from Rockefeller was from 1946 to 1948, when he worked at John Hopkins School of Hygiene.
32. Archibald returned to Rockefeller in 1948.
33. In 1949, Archibald became licensed to practice medicine in New York.
34. Even after his retirement, Archibald remained at Rockefeller as a senior physician emeritus until at least 1987.
35. During that period, Archibald was an agent, employee, and servant and under Rockefeller's supervision, management, agency, and control.
36. During Archibald's tenure with Rockefeller, Archibald treated children with trouble growing, who given their young age and often small size were particularly vulnerable.
37. Rockefeller represented to patients that Archibald was a good doctor, worthy of trust, with whom patients had nothing to fear.
38. Archibald's patients had no reason to suspect Archibald posed a threat of harm to his patients.
39. For decades Archibald sexually abused hundreds, if not thousands, of his child patients, including the Plaintiffs.
40. Typically, Archibald would bring his child patients into a private/office at Rockefeller, often lock the door, and he would then:
 - a. Have them strip naked;
 - b. Measure boys' penises flaccid and erect;

- c. Masturbate boys, sometimes to ejaculation;
- d. Have boys masturbate in front of him, sometimes to ejaculation;
- e. Collect boys' semen for unknown uses;
- f. Have nude patients sit on his lap;
- g. Take nude photographs of his patients, both male and female, often standing against a wall with their palms out facing the camera, or close-up on their genitals.

41. Archibald's taking of semen samples is not referenced in any of Archibald's research records, consent forms signed by patients or their parents, or patients' records.

42. If legitimate, Archibald's records would reflect the collection of the semen.

43. On occasion, upon information and belief, nurses from Defendants assisted Archibald in the handling of semen samples.

44. However, as described below, Archibald himself in 2004 denied ever taking semen samples despite many, many men who recall Archibald's practice of doing so.

45. Archibald would himself become obviously aroused during examinations where he engaged in the sexual conduct described herein.

46. Archibald's sexual abuse of patients took place in Archibald's office and in the exam rooms at Rockefeller's facilities.

47. None of Archibald's sexual conduct with his child patients was medically necessary.

48. Rockefeller, as described herein, has acknowledged that much of Archibald's behavior "constituted sexual abuse rather than a legitimate medical or research procedure."

49. Archibald is also reported to have taken patients to property in Canada where he abused them.

50. Rockefeller again acknowledges that any such conduct was wrongful sexual abuse.

51. Sadly, Archibald died May 10, 2007, before the public and nearly all of his victims discovered Archibald for the predator he was.

Rockefeller's Knowledge of Archibald's Conduct

52. Over the years, questions and allegations of inappropriate behavior were raised at Rockefeller regarding Archibald's practices.

53. Upon information and belief, Defendants were aware by the 1950s of some or all of Archibald's red-flag conduct as described above, including, but not limited to, meeting with patients alone in a locked office with no chaperone, not permitting parents in exam rooms, taking nude photos of children, collecting semen samples, and not processing or recording those samples.

54. First, in late 1960, the New York County District Attorney's Office issues a grand jury subpoena for medical records for two of Archibald's patients.

55. The grand jury subpoena was prompted by a complaint about Archibald's conduct.

56. Then-president of Rockefeller was made aware of the investigation into Archibald at that time.

57. Upon information and belief, no action was taken to discipline Archibald nor restrict his access to patients.

58. Thereafter, between 1960 and 1974, Rockefeller's then physician in chief received several other complaints regarding Archibald's behavior and examination of patients' genitals.

59. The physician in chief himself believed Archibald's approach to genital exams was questionable.

60. In short, by 1950 and/or 1960, Rockefeller had knowledge, actual or constructive, that Archibald was engaged in inappropriate behavior regarding patients, but took no action.

61. Rockefeller's inaction allowed Archibald to victimize children for decades more.

62. Years after Archibald retired, in 1996 Rockefeller received a letter from a former patient complaining of Archibald's conduct in the 1960s and 1970s.

63. Archibald denied the allegations, which Rockefeller credited.

64. In 1998, another of Archibald's patients complained that Archibald acted inappropriately sexually toward him during exams.

65. In 2004, Rockefeller received yet another complaint from a former Archibald patient that described conduct consistent with Archibald's pattern of abuse.

66. In 2018, Rockefeller received another complaint from former Archibald patient, who came forward with similar complaints.

67. In October 2018, Rockefeller sent letters to as many of Archibald's patients as it could identify.

68. Rockefeller received over 900 individual responses.

69. Since October 2018, the world has become aware of the scale of Archibald's crimes, and Rockefeller's failure to protect hundreds, potentially thousands, of children from sexual abuse at his hand.

Plaintiffs' Abuse by Archibald

70. Each of the Plaintiffs was sexually abused by Archibald, as described below.

71. None of the acts described herein were medically necessary or appropriate.

72. Rather, Archibald did all the acts described herein for his own sexual gratification.

73. Plaintiff M.B. started treating with Archibald at Rockefeller in 1974 when he was 7 years old; M.B. had appointments with Archibald at a minimum on 11/26/1974, 11/25/1975, 11/16/1976, 11/15/1977, 12/20/1978, 10/24/1979, and 05/20/1980. During these appointments,

Archibald sexually abused M.B., including, but not limited to, Archibald taking naked pictures, and fondling and stroking M.B.'s penis and testicles.

74. Plaintiff N.R.F. started treating with Archibald at Rockefeller in 1965 when he was 12 years old; N.R.F. had appointments with Archibald at a minimum on 01/26/1965, 02/24/1965, in 1966, and on 01/25/1967, and 01/24/1968, and 12/4/1968. During these appointments, Archibald sexually abused N.R.F., including, but not limited to, taking of nude photos, including of N.R.F.'s genitals, fondling N.R.F.'s genitals, measuring N.R.F.'s genitals, and N.R.F. sitting nude in Archibald's lap.

75. Plaintiff J.B.F. started treating with Archibald at Rockefeller in 1965 when he was 14 years old; J.B.F. had appointments with Archibald at a minimum on 07/15/1965, 10/27/1965, 04/06/1966, 11/02/1966, 05/09/1967, 12/19/1967, 07/25/1968, 09/04/1968 and 05/27/1969. During one of these appointments, Archibald sexually abused J.B.F., including, but not limited to, having J.B.F. masturbate until ejaculation in front of Archibald, taking nude photos of J.B.F., and Archibald having J.B.F. sit nude on Archibald's lap.

76. Plaintiff C.A.F. started treating with Archibald at Rockefeller in 1972 at 11 years old; C.A.F. had appointments with Archibald at a minimum on 02/02/1972, 02/27/1973, 04/30/1974, and 12/15/1976. During these appointments, Archibald sexually abused C.A.F., including, but not limited to, taking pictures of C.A.F.'s genitals, asking C.A.F. to masturbate, masturbating C.A.F., commenting about C.A.F.'s penis, attempting to collect C.A.F.'s semen, and having C.A.F. sit naked in Archibald's lap, sometimes with an erection.

77. Plaintiff T.B.H. treated with Archibald at Rockefeller starting at age 10 in 1974; she had appointments with Archibald at a minimum on 11/26/1974, 11/25/1975, 11/16/1976,

11/15/1977, 12/20/1978, and 10/24/1979. During these appointments, Archibald sexually abused T.B.H., including, but not limited to, taking intimate photos of T.B.H.'s genitals.

78. Plaintiff R.K. started treating with Archibald at Rockefeller at age 13 in 1974; R.K. had appointments with Archibald at a minimum on 02/28/1974, 02/27/1975, 01/14/1976, and 03/20/1979. At each of these four appointments, Archibald sexually abused R.K., including, but not limited to, using his hands to masturbate R.K. to ejaculation, and collection of R.K.'s semen.

79. Plaintiff M.M. started treating with Archibald at Rockefeller at age 14 in 1950; M.M. had appointments with Archibald at a minimum on 5/10/1950, 05/18/1950, 06/08/1950, 06/29/1950, 08/16/1950, 09/19/1950, 10/24/1950, 01/03/1951, 03/07/1951, 05/16/1951, 06/13/1951, 09/19/1951, 12/19/1951, 02/27/1952, 05/28/1952, 08/27/1952, 11/11/1952, 03/10/1953, 09/15/1953, and 10/30/1956; During these appointments, Archibald sexually abused M.M., including, but not limited to, fondling M.M.'s genitals, took nude photos of M.M, making M.M. get an erection through self-masturbation (and would take photos while M.M. was doing so), and roughly 3 times Archibald masturbated M.M. to the point of ejaculation.

80. Plaintiff E.M. met Archibald at the Madison Square Boys & Girls Club, when he was roughly 11 years old; Archibald first abused E.M. at the Club, and then E.M. treated with Archibald at Rockefeller at a minimum on 06/19/1956 and 05/09/1959. During these appointments, Archibald sexually abused E.M., including, but not limited to, taking nude photos of E.M., including of his genitals, and Archibald masturbating E.M. to ejaculation and collection of E.M.'s semen.

81. Plaintiff A.M. started treating with Archibald at Rockefeller in 1963 at age 12; his appointments with Archibald at a minimum occurred on 10/22/1963, 2/27/1964, 06/04/1964, 12/8/1964, 06/01/1965, 06/07/1966, 06/06/1967, and 06/04/1968. During one of these

appointments, Archibald sexually abused A.M., including, but not limited to, masturbating A.M. to ejaculation.

82. Plaintiff B.S. started treating with Archibald at Rockefeller in approximately 1974, and had several appointments with Archibald; During these appointments, Archibald sexually abused B.S., including, but not limited to, Archibald fondling his genitals and masturbating B.S.

83. Plaintiff D.S. treated with Archibald at Rockefeller at a minimum on 10/16/1975 when he was 14 years old; during the appointment Archibald sexually abused D.S., including, but not limited to, masturbating D.S.

84. Plaintiff E.T.S. treated with Archibald at Rockefeller starting in 1960 when he was 5 years old; E.T.S. at a minimum had appointments with Archibald on 11/03/1960, 02/23/1961, 04/26/1961, 10/25/1961, 08/23/1962, 02/26/1963. During these appointments, Archibald sexually abused E.T.S., including, but not limited to, taking nude photos of E.T.S. and fondling his genitals.

85. Plaintiff E.S. treated with Archibald at Rockefeller at a minimum on 10/9/1973 when E.S. was 10 years old. During the appointment, Archibald sexually abused E.S., including, but not limited to, taking nude pictures of E.S., fondling his genitals, and digitally penetrating E.S.'s rectum.

86. Plaintiff A.N.T. treated with Archibald at Rockefeller starting in 1965 when he was 13 years old; A.N.T. at a minimum had appointments with Archibald on 6/17/1965, 05/31/1966, 11/29/1966, 05/02/1967, 12/12/1967, 01/30/1969, 01/22/1970, 11/19/1970, and 12/16/1971. During these appointments, Archibald sexually abused A.N.T. including, but not limited to, Archibald having A.N.T. sit on his lap nude, and Archibald masturbating A.N.T. approximately three times.

87. Plaintiff M.W. treated with Archibald at Rockefeller starting in approximately 1961, and had several appointments with Archibald; during these appointments, Archibald sexually abused M.W. including, but not limited to, taking nude photos, fondling M.W.'s genitals, asking M.W. to masturbate to produce a semen sample, having M.W. masturbate on an exam table on M.W.'s stomach (M.W. could not ejaculate); at another appointment, M.W. tried to ejaculate at Archibald's request by looking at a Playboy while masturbating on the exam table, but Archibald stopped him.

88. In the fall of 2018, as part of Rockefeller's investigation into Archibald's abusive conduct, Rockefeller sent a letter to more than 1,000 of Archibald's former patients.

89. Upon information and belief, at least one purpose of Rockefeller's letter was to gather information about potential plaintiffs for litigation purposes, including the Plaintiffs in this case.

90. Rockefeller was aware that it was sending this letter to victims of child sexual abuse, including Plaintiffs.

91. Upon information and belief, Rockefeller knew it was likely that the letter would cause Archibald's former patients, including Plaintiffs, severe emotional distress but sent the letter anyway.

92. Many of Archibald's former patients learned for the first time from the letter that Archibald abused children, including Plaintiffs.

93. As a direct result of the Defendants' conduct described herein, Plaintiffs suffered and will continue to suffer as follows:

- a. Plaintiffs suffered, and continue to suffer, severe and permanent emotional distress, including physical manifestations of emotional distress;

- b. Plaintiffs suffered, and continue to suffer, deprivation of the full enjoyment of life;
- c. Plaintiffs incurred, and continue to incur, expenses for medical and psychological treatment, therapy, and counseling; and,
- d. Plaintiffs incurred, and will continue to incur, loss of income and/or loss of earning capacity.

Causes of Action

First Cause of Action

Negligent Hiring/Retention/Supervision/Direction

Plaintiffs v. Defendants

- 94. Plaintiffs repeat and re-allege every allegation set forth throughout this Complaint.
- 95. Defendants owed a duty of care to all minor persons, including Plaintiffs, who were likely to come in contact with Archibald in his role as doctor, counselor, trustee, director, officer, employee, agent, servant and/or volunteer of the Defendants, to insure Archibald did not use his position to injure minors by sexual assault, abuse, and/or sexual contact.
- 96. Defendants had an express and/or implied duty to provide a reasonably safe environment for Plaintiffs and assumed the duty to protect and care for them.
- 97. Defendants negligently hired, retained, directed, and supervised Archibald though they knew or should have known that Archibald posed a threat of harm to minors.
- 98. Defendants knew or should have known of Archibald's propensity for the conduct which caused Plaintiff's injuries prior to, or at the time of, the injuries' occurrence.
- 99. Defendants were negligent in failing to properly supervise Archibald.

100. The Plaintiffs' sexual abuse by Archibald was a foreseeable result of Defendants' negligence.

101. Defendants' actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of Plaintiffs.

102. As a direct and proximate result of Defendants' actions and omissions, Plaintiffs suffered and will continue to suffer injuries, as described herein.

103. By reason of the foregoing, the Defendants are liable to the Plaintiffs, jointly, severally, and/or in the alternative liable to the Plaintiffs for compensatory damages and for punitive damages, together with interest and costs.

104. The limitations on liability set forth in CPLR 1601 do not apply by reason of one or more of the exemptions set forth in CPLR 1602.

Second Cause of Action

Negligence/Gross Negligence/Recklessness

Plaintiffs v. Defendants

105. Plaintiffs repeats and re-alleges every allegation set forth throughout this Complaint.

106. Defendants knew, or were negligent in not knowing, Archibald posed a threat of sexual abuse to children.

107. Archibald's acts described herein were undertaken, and/or enabled by, and/or during the course, and/or within the scope of Archibald's employment, appointment, assignment, and/or agency with Defendants.

108. Defendants owed Plaintiffs, minors at the relevant times of abuse, a duty to protect them from Archibald and the consequential damages, both prior to and/or subsequent to Archibald's misconduct.

109. Defendants' actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of Plaintiffs.

110. Defendants: (1) gave improper or ambiguous orders or failed to make proper regulations, and/or employed improper persons or instrumentalities in work involving risk of harm to others; (2) failed adequately to supervise the activities of Archibald; (3) failed to protect against or warn the Plaintiffs or their families of the known risk of abuse; (4) permitted, and/or intentionally failed and/or neglected to prevent, negligent and/or grossly negligent conduct and/or allowed other tortious conduct by persons, whether or not their servants and/or agents and/or employees, upon premises or with instrumentalities under their control; and (5) allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint to occur.

111. Defendants' actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of Plaintiffs.

112. As a direct and proximate result of Defendants' actions and omissions, Plaintiffs suffered and will continue to suffer injuries, as described herein.

113. By reason of the foregoing, the Defendants are liable to the Plaintiffs, jointly, severally, and/or in the alternative liable to the Plaintiffs for compensatory damages and for punitive damages, together with interest and costs.

114. The limitations on liability set forth in CPLR 1601 do not apply by reason of one or more of the exemptions set forth in CPLR 1602.

Third Cause of Action**Breach of Non-Delegable Duty****Plaintiffs v. Defendants**

115. Plaintiffs repeats and re-alleges every allegation set forth throughout this Complaint.

116. Plaintiffs, as vulnerable minors, were in the care and under the supervision of the Defendants.

117. There existed a non-delegable duty of trust and protection between Plaintiffs and the Defendants.

118. Defendants were in the best position to prevent Plaintiffs' abuse by Archibald, who was under the supervision, employ, direction and/or control of the Defendants.

119. Defendants breached their non-delegable duty to Plaintiffs.

120. Defendants' actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of Plaintiffs.

121. By reason of the foregoing, the Defendants are liable to the Plaintiffs, jointly, severally, and/or in the alternative liable to the Plaintiffs for compensatory damages and for punitive damages, together with interest and costs.

122. The limitations on liability set forth in CPLR 1601 do not apply by reason of one or more of the exemptions set forth in CPLR 1602.

Fourth Cause of Action**Breach of Fiduciary Duty****Plaintiffs v. Defendants**

123. Plaintiffs repeats and re-alleges every allegation set forth throughout this Complaint.

124. At all times relevant, there existed a fiduciary relationship of trust, confidence, and reliance between Defendants and Plaintiffs that required the Defendants act in Plaintiffs' best interests.

125. Defendants breached their fiduciary relationship with Plaintiffs.

126. Defendants' actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of Plaintiffs.

127. By reason of the foregoing, the Defendants are liable to the Plaintiffs, jointly, severally, and/or in the alternative liable to the Plaintiffs for compensatory damages and for punitive damages, together with interest and costs.

128. The limitations on liability set forth in CPLR 1601 do not apply by reason of one or more of the exemptions set forth in CPLR 1602.

Fifth and Sixth Cause of Action

Negligent and/or Intentional Infliction of Emotional Distress

Plaintiffs v. Defendants

129. Plaintiffs repeats and re-alleges every allegation set forth throughout this Complaint.

130. Defendants intentionally, recklessly, and/or negligently caused the Plaintiffs severe emotional distress.

131. Defendants intended to cause, or disregarded a substantial probability of causing, severe emotional distress in Plaintiffs.

132. Defendants unreasonably endangered the Plaintiffs' physical safety, and/or caused the Plaintiffs to fear for their own safety.

133. There exists a causal connection between the Defendants' conduct and injury

134. Defendants conduct was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

135. Defendants' actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of Plaintiffs.

136. By reason of the foregoing, the Defendants are liable to the Plaintiffs, jointly, severally, and/or in the alternative liable to the Plaintiffs for compensatory damages and for punitive damages, together with interest and costs.

137. The limitations on liability set forth in CPLR 1601 do not apply by reason of one or more of the exemptions set forth in CPLR 1602.

Seventh Cause of Action

Breach of Duty in Loco Parentis

Plaintiffs v. Rockefeller Defendants

138. Plaintiffs repeats and re-alleges every allegation set forth throughout this Complaint.

139. At all times relevant, the Plaintiffs were entrusted to the control of the Defendants.

140. The Defendants owed a duty to Plaintiff, as children entrusted to them, to act in loco parentis and prevent foreseeable injuries to them.

141. Defendants violated their duties in loco parentis.

142. Defendants' actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of Plaintiffs.

143. By reason of the foregoing, the Defendants are liable to the Plaintiffs, jointly, severally, and/or in the alternative liable to the Plaintiffs for compensatory damages and for punitive damages, together with interest and costs.

144. The limitations on liability set forth in CPLR 1601 do not apply by reason of one or more of the exemptions set forth in CPLR 1602.

WHEREFORE Plaintiff demands judgment against the Defendants on each cause of action as follows:

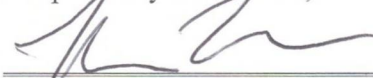
- a) Awarding compensatory damages in an amount to be proved at trial, in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- b) Awarding punitive damages to the extent permitted by law;
- c) Awarding prejudgment interest to the extent permitted by law;
- d) Awarding costs and fees of this action, including attorneys' fees, to the extent permitted by law; and,
- e) Awarding such other and further relief as to this Court may seem just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues so triable.

Dated: August 14, 2019
New York, New York

Respectfully Submitted,



Kathleen Thomas, Esq.

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(*NY Admission Pending*)

Attorneys for Plaintiffs


ATTORNEY'S VERIFICATION

KATHLEEN R. THOMAS, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am an attorney at **THOMAS LABARBERA COUNSELORS AT LAW, PC**, attorneys of record for Plaintiffs. I have read the annexed **SUMMONS AND COMPLAINT** and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

This verification is made by me because a number of the plaintiffs in this matter are not presently in the county wherein I maintain my offices.

Dated: New York, New York
 August 14, 2019



Kathleen R. Thomas, Esq.